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Remarks:

*Amendments to the claims:*

Claims 1, 3-14 and 26 are pending in this application. By this Amendment, claims 1, 3-5 and 9 are amended, claims 2 and 15-25 are canceled, and new claim 26 is added. Claims 3-5 and 9 are amended to correct typographical errors and to provide proper antecedent basis for features therein. Applicants reserve the right, without prejudice, to pursue the subject matter of canceled claims 15-25 in one or more divisional applications.

No new matter is added to the application by this Amendment. Support for the features added to claim 1 can be found in canceled claim 2 and within the specification, as originally filed, at, for example, paragraphs [0092] of U.S. Patent Publication No. 2008/0136055 (hereinafter "the '055 publication") for the present application. New claim 26 finds support within the specification, as originally filed, at, for example, paragraphs [0045]-[0056].

*Regarding the rejections of claims 1-19 and 23 under 35 USC 112, second paragraph:*  
Applicants respectfully traverse the objection of the foregoing claims.

In view of the cancelation of claims 15-19 and 23, this rejection is moot with respect to those claims

The Patent Office alleges that the feature "post-extrusion enhancement treatment" is unclear and has been interpreted to indicate any post extrusion change to the extrudant, such as, post extrusion cooling or cutting. Additionally, the Patent Office alleges that there is insufficient antecedent basis for the feature "binder" in claims 13 and 14. Applicants respectfully disagree with the allegations by the Patent Office.

In view of paragraphs [0046]-[0056] of the '055 publication, the feature "post-extrusion enhancement treatment" as recited in claim 1 is not unclear as alleged by the Patent Office. Moreover, new claim 26 further defines the feature "post-extrusion enhancement

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treatment" recited in claim 1 and also illustrates that the feature "post-extrusion enhancement treatment" of claim 1 is not unclear in view of the present specification. Thus, Applicants submit that amended claim 1 is definite and particularly points out and distinctly claims the subject matter which Applicants regard as the invention.

Claim 1 was amended to include the feature "binder." Thus, there is sufficient antecedent basis in claim 1 for the feature "binder" recited in claims 13 and 14.

Applicants respectfully request withdrawal of this rejection of claims 1-14.

*Regarding the rejection of claim 23 under 35 USC 101:*

Applicants traverse the Examiner's rejection of the foregoing claim.

In light of the cancelation of claim 23, Applicants submit that this rejection is moot.

Applicants respectfully request withdrawal of this rejection to the claim.

*Regarding the rejection of claims 1-5, 7-9, 15, 16, 20, 20 and 23 under 35 USC 102(b) as allegedly being anticipated by U.S. Patent No. 5,382,377 to Raehse et al. (hereinafter "Raehse"):*

Applicants traverse the Examiner's rejection of the foregoing claims as allegedly being anticipated by Raehse.

Prior to discussing the relative merits of the Examiner's rejection, the applicant points out that unpatentability based on "anticipation" type rejection under 35 USC 102(b) requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee"). Anticipation requires that a *single reference* [emphasis added] describe the claimed

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invention with sufficient precision and detail to establish that the subject matter existed in the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

The principle of "inherency," in the law of anticipation, requires that any information missing from the reference would nonetheless be known to be present in the subject matter of the reference, when viewed by persons experienced in the field of the invention. However, "anticipation by inherent disclosure is appropriate only when the reference discloses prior art that must necessarily include the unstated limitation, [or the reference] cannot inherently anticipate the claims." *Transclean Corp. v. Bridgewood Servs., Inc.*, 290 F.3d 1364, 1373 [62 USPQ2d 1865] (Fed. Cir. 2002); *Hitzeman v. Rutter*, 243 F.3d 1345, 1355 [58 USPQ2d 1161] (Fed. Cir. 2001) ("consistent with the law of anticipation, an inherent property must necessarily be present in the invention described by the count, and it must be so recognized by persons of ordinary skill in the art"); *In re Robertson*, 169 F.3d 743, 745 [49 USPQ2d 1949] (Fed. Cir. 1999) (that a feature in the prior art reference "could" operate as claimed does not establish inherency).

Thus when a claim limitation is not explicitly set forth in a reference, evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co.*, 948 F.2d at 1268. It is not sufficient if a material element or limitation is "merely probably or possibly present" in the prior art. *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295 [63 USPQ2d 1597] (Fed. Cir. 2002). See also, *W.L. Gore v. Garlock, Inc.*, 721 F.2d at 1554 (Fed. Cir. 1983) (anticipation "cannot be predicated on mere conjecture respecting the characteristics of products that might result from the practice of processes disclosed in references"); *In re Oelrich*, 666 F.2d 578, 581 [212 USPQ 323] (CCPA 1982) (to anticipate, the asserted inherent function must be present in the prior art).

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The Patent Office alleges that Raehse discloses each and every feature recited in claims 1-5, 7-9, 15, 16, 20, 20 and 23. Applicants respectfully disagree with the allegations by the Patent Office.

Raehse fails to disclose an extrusion process in which the proportion of cleaning or water softening composition particulates remaining in the solid state during extrusion is greater than 20%. In contrast, Raehse discloses an extrusion process in which the entire extruded composition is rendered into a liquid state during extrusion. Raehse describes an extruded composition as being plasticized. When an extruded composition is described as being plasticized, it must be assumed that this entire composition is converted into a liquid form. Specifically, Raehse discloses:

Under the shearing effect of the extruder screws, the premix is compacted under pressures of 50 to 200 bar and, more particularly, under pressures of 80 to 180 bar, plasticized, extruded in the form of thin strands through the perforated die in the extruder head and, finally, the extrudate is size-reduced by means of a rotating blade, preferably to spherical or cylindrical granules. (see col. 5, lines 35-42 of Raehse)

Applicants have found that by the extrusion of a composition having a high proportion of solid particulate matter enhanced dissolution control of tablets is obtained. As discussed in paragraph [0008] of the '055 publication, the extrusion of hard, crystalline materials has previously been avoided. Extrusion is best suited for materials having a plastic mechanical behaviour, i.e., materials which at least partially melt in the extrusion process. By at least partially melting, the problems of extruder abrasion are avoided. Hence, hard crystalline materials are not extruded due to extruder abrasion issues. However, in the present invention, it has been found that the problem of extruder abrasion has been surprisingly overcome (see paragraph [0093] of the '055 publication).

Nowhere does Raehse disclose a method of making tablets of a cleaning composition or of a water-softening composition or tablet precursors therefor, wherein a proportion of

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the cleaning or water softening composition particulates remaining in the solid state during extrusion is greater than 20% w/w as required by amended claim 1.

Because the features of independent claim 1 are neither taught nor suggested by Raehse, Raehse cannot anticipate, and would not have rendered obvious, the features specifically defined in claim 1 and its dependent claims.

For at least these reasons, claims 1-5 and 7-9 are patentably distinct from and/or non-obvious in view of Raehse. Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 102(b) relying on Raehse are respectfully requested.

*Regarding the rejection of claims 1, 17 and 20 under 35 USC 102(b) as allegedly being anticipated by U.S. Patent No. 4,460,490 to Barford et al. (hereinafter "Barford"):*

Applicants traverse the Examiner's rejection of the foregoing claims as allegedly being anticipated by Barford.

The Patent Office alleges that Barford discloses each and every feature recited in claims 1, 17 and 20. Applicants respectfully disagree with the allegations by the Patent Office.

In light of the cancelation of claims 17 and 20, this rejection is moot with respect to those claims.

Amended claim 1 incorporates the features of canceled claim 2, which was not rejected under 35 USC 102(b)/103(a) relying on Barford.

As acknowledged by the Patent Office's failure to reject canceled claim 2 in view of Barford, Barford fails to teach or suggest a step of providing a binder into the feed port of the extruder or at a point downstream of the feed port, wherein the binder is a solid at room temperature but is mixed in the form of a liquid with the cleaning or water-

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softening composition particles or the binder becomes a liquid inside the extruder, wherein a proportion of particulate remaining in the solid state during extrusion is greater than 20% w/w as required by amended claim 1.

Because the features of independent claim 1 are neither taught nor suggested by Barford, Barford cannot anticipate, and would not have rendered obvious, the features specifically defined in claim 1.

For at least these reasons, claim 1 is patentably distinct from and/or non-obvious in view of Barford. Reconsideration and withdrawal of the rejection of the claim under 35 U.S.C. 102(b) relying on Barford are respectfully requested.

*Regarding the rejection of claim 24 under 35 USC 102(b) as allegedly being anticipated by U.S. Patent Publication No. 2002/0015730 to Hoffmann et al. (hereinafter "Hoffmann"):*

Applicants traverse the Examiner's rejection of the foregoing claims as allegedly being anticipated by Hoffmann.

In light of the cancelation of claim 24, this rejection is moot.

Accordingly, reconsideration and withdrawal of the rejection of the claim under 35 U.S.C. 102(b) relying on Hoffmann are respectfully requested.

*Regarding the rejection of claims 6, 10, 13 and 17 under 35 USC 103(a) as allegedly being unpatentable over Raehse:*

Applicants respectfully traverse the rejection of the foregoing claims in view of Raehse.

Prior to discussing the merits of the Examiner's position, the undersigned reminds the Examiner that the determination of obviousness under § 103(a) requires consideration of



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the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *McNeil-PPC, Inc. v. L. Perrigo Co.*, 337 F.3d 1362, 1368, 67 USPQ2d 1649, 1653 (Fed. Cir. 2003). There must be some suggestion, teaching, or motivation arising from what the prior art would have taught a person of ordinary skill in the field of the invention to make the proposed changes to the reference. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). But see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2D 1385 (U.S. 2007).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000) A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

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The Patent Office alleges that the features of claims 6, 10, 13 and 17 are obvious in view of Raehse. Applicants respectfully disagree with the allegations by the Patent Office.

In view of the cancelation of claim 17, this rejection is moot with respect to that claim.

Raehse does not teach or suggest that a proportion of the cleaning or water softening composition particulates remaining in the solid state during extrusion is greater than 20% w/w as required by independent claim 1, from which claims 6, 10 and 13 depend.

Because these features of independent claim 1 are not taught or suggested by Raehse, Raehse would not have rendered the features of claims 6, 10 and 13 obvious to one of ordinary skill in the art.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

*Regarding the rejection of claim 11, 12 and 14 under 35 USC 103(a) as allegedly being unpatentable over Raehse in view of Hoffmann:*

Applicants respectfully traverse the rejection of the foregoing claims in view of Raehse and Hoffmann.

The Patent Office alleges that claims 11, 12 and 14 are obvious in view of Raehse and Hoffmann. Applicants respectfully disagree with the allegations of the Patent Office.

Hoffmann does not remedy the deficiencies of Raehse as set forth above with respect to claim 1, from which claims 11, 12 and 14 depend because Hoffmann does not teach or suggest that a proportion of the cleaning or water softening composition particulates remaining in the solid state during extrusion is greater than 20% w/w. Thus, neither Raehse nor Hoffmann, taken singly or in combination, teaches or suggests that a



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proportion of the cleaning or water softening composition particulates remaining in the solid state during extrusion is greater than 20% w/w as required by independent claim 1.

Because these features of independent claim 1 are not taught or suggested by Raehse and Hoffmann, taken singly or in combination, these references would not have rendered the features of dependent claim 11, 12 and 14 obvious to one of ordinary skill in the art.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

*Regarding the rejection of claim 18 and 19 under 35 USC 103(a) as allegedly being obvious over Hoffmann et al. in view of Modern Plastics Handbook-McGraw-Hill (2000) to Harper et al. (hereinafter "Harper"):*

Applicants traverse the Examiner's rejection of the foregoing claims as allegedly being obvious over Hoffmann in view of Harper.

In light of the cancelation of claims 18 and 19, this rejection is moot.

Accordingly, reconsideration and withdrawal of the rejection of the claim under 35 U.S.C. 103(a) relying on Hoffmann and Harper are respectfully requested.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience. The early issuance of a *Notice of Allowability* is solicited.

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### CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;

  
Andrew N. Parfomak, Esq.

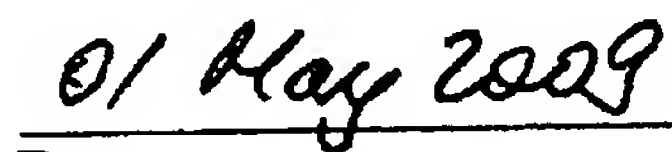
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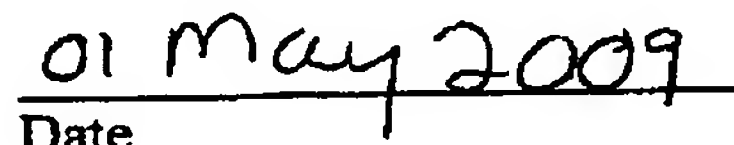
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